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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/382,423	08/24/1999	JEFFRY JOVAN PHILYAW	RPXC - 24,739	5217

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EXAMINER	
BROWN, RUEBEN M	

ART UNIT	PAPER NUMBER
2424	

NOTIFICATION DATE	DELIVERY MODE
05/04/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@dalpat.com

Office Action Summary	Application No.	Applicant(s)	
	09/382,423	PHILYAW ET AL.	
	Examiner	Art Unit	
	REUBEN M. BROWN	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 January 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4,5 and 7-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4,5 and 7-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Freeman, (U.S. PG-PUB 2004/0261127).

Considering amended claim 1, the claimed method for delivering advertising to a consumer over a broadcast media/global communication network, comprising the steps of *'generating an advertisement broadcast comprised of a general program having non-advertisement content and associated advertising content dispersed there through for broadcast over a broadcast media which is directed to a general class of consumers'*, reads on Freeman

which teaches that a broadcast program that includes enhanced content such as graphics, interactive content, supplemental information, etc. (Para [0008-0011]) may be streamed to a plurality of consumers over broadcast media such as CATV, satellite, fiber and/or RF networks, Para [0047].

The claimed feature of *'embedding in the broadcast unique information for inducing a consumer to view the broadcast for later access to a desired advertiser's location on the global network over a PC based system'* reads on enhancing content transmitted in the broadcast program. Freeman teaches that the enhancing content may be in the form of questions submitted to a viewer of a TV broadcast, the answers of which are used to determine which further enhancing content the instant viewer would receive, see Para [0031-0037]. These interrogatories may be presented to the viewer at the beginning of the program or scattered throughout the program, and are transmitted along with the instant TV broadcast, which meets the claimed, *'embedding in the broadcast unique information'*, since the enhancing content reads on the claimed 'unique information', see Para [0028, 0037, 0039, 0041, 0047-0050]. Freeman goes on to teach that questions are one of the components of the enhancing content, which are transmitted to the consumer for the purpose of finding out the user's preferences for the upcoming enhancing content, see Para [0037], which meets the claimed feature of, *'inducing the consumer to view the broadcast for later access to a desired advertiser's location on the global network system over a PC-based system'*. Thus, Freeman informs the customer that upcoming enhancing content will be provided within the instant broadcast program, wherein the upcoming enhancing content may

comprise advertisement and/or specific Internet web sites that the consumer may access, see Para [0032-0034, 0079].

As for the specifics of, *'a desired advertiser's location on the global network system'*. Again, in Para [0008, 0123-0127] Freeman teaches that the upcoming enhancing content may be a web page, which reads on *'location on the global network'*. Furthermore, Freeman discloses that web pages may serve as advertisements to the consumer, Para [0016]. Therefore, Freeman discloses inducing a consumer (at least by using questions presented to the consumer), to view a later portion of the broadcast that will then present an enhancing content, such as a specific advertisement embodied as a hyperlink or web page. Since the advertisement is in HTML format, the consumer may access the advertiser's location on the Internet, which meets the claimed subject matter.

The additionally claimed feature of, *'broadcasting to the potential class of consumers, the advertisement broadcast with the embedded unique information therein, such that the embedded unique information is presented to the consumer in the same manner as the advertisement broadcast'*, is met by the discussion that the enhancing content may include trivia questions, advertisements, video images, etc., displayed along with the regular content, see Para [0032, 0087].

Regarding the amended claimed feature of, *'dispersing the unique information throughout the advertisement broadcast at different times during the program, such that the*

consumer is induced by at least a first portion of the received unique information to access the desired advertiser's location after a predetermined time in the broadcast and wherein the location of at least a second portion the unique information in the program broadcast is associated with the content of the program broadcast proximate in time thereto… such that the first portion induces by informing the consumer that an access will be available at another desired time and the at least second portion that is delivered to the consumer at the another desired time during the program allows the consumer to access the desired advertiser location through the PC based system proximate in time to the occurrence of the advertisement broadcast', emphasis added, as pointed out above, Freeman Para [0008, 0011, 0037, 0114, 0120-0121] discloses that the consumer is presented with questions (which reads on the claimed *'first portion'*), the answers to which are used by the system to determine which web pages, i.e., advertisements (which reads on the claimed *'second portion'*) will be presented to the instant consumer at the appropriate time, see Para [0015].

'accessing the desired advertiser's location proximate to the another desired time in the program', reads on the consumer selecting at least one of the Internet hyperlinks displayed on the see, para [0015, 0114, 0124-0127].

Considering claim 2, the claimed method step of *'activating a network or server at the advertiser's location to wait for a response in the form of a network connection to the*

advertiser's location by a potential consumer, and upon a response from one of the consumers providing information additional to that contained within the advertisement broadcast', reads on the operation of Freeman, wherein a user may select an advertisement that contains a web page or hyperlink, which by definition connects the consumer to the server that hosts the web page. Additional web pages are transmitted to the consumer, in response to requests for the instant web pages, by the well-known process of selection of HTML hyperlinked icons, buttons, interactive images, etc.

Considering claim 10, the Freeman teaches that the data may be in the form of a video stream or graphics/text, [0031-0037] which meet the subject matter.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 4-5, 7 & 11, are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman, in view of Houston, (U.S. Pat # 6,353,929).

Considering claims 4-5 & 7 Freeman does not explicitly discuss embedding information in the unique information/advertisement that can be decoded by the PC and transferred back to the advertiser's location upon access thereof by the consumer. Nevertheless, Houston teaches at least embedding an identification code, tag or number, for the purpose of tracking the exposure of consumers to particular content; see Abstract; col. 8, lines 34-54 & col. 9, lines 32-60. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Freeman with the feature of embedding ID information in an advertisement, at least for the desirable benefit of tracking statistics data regarding the instant advertisement, as taught by Houston, col. 1, lines 15-41 & col. 2, lines 41-67.

Considering claim 11, Freeman does not explicitly discuss embedding information in the unique information/advertisement that can be decoded by the PC and transferred back to the advertiser's location upon access thereof by the consumer. Nevertheless, Houston teaches at least embedding an identification code, tag or number, for the purpose of tracking the exposure of consumers to particular content; see Abstract; col. 8, lines 34-54 & col. 9, lines 32-60. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Freeman with the feature of embedding ID information in an advertisement, at least for the desirable benefit of tracking statistics data regarding the instant advertisement, as taught by Houston, col. 1, lines 15-41 & col. 2, lines 41-67.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman, in view of Chernock, (U.S. Pat # 6,813,776).

Considering claim 8, Freeman teaches that the enhancing content may be presented in numerous forms, including sound, including graphics, video pictures and a hyperlinked, Para [0032]. However, the reference does not explicitly discuss that they may be in a form, of a unique sound recognizable by the consumer. Nevertheless, Chernock is in the same field of endeavor and is directed to providing multimedia reminders that are associated with specifically scheduled content. These reminders may take the form of an audio reminder and/or a schedule icon, such as an on-screen countdown, see col. 5, lines 5-12 & col. 6, lines 26-38. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Freeman with the feature of an explicit graphic/video or audio reminder of an upcoming event, at least for the advantage of insuring that the consumer is made aware of the instant upcoming event, as taught by Chernock.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman & Chernock as applied to claim 8 above, and further in view of Houston.

Considering claim 9, Freeman does not explicitly discuss embedding information in the unique information/advertisement that can be decoded by the PC and transferred back to the advertiser's location upon access thereof by the consumer. Nevertheless, Houston teaches at least embedding an identification code, tag or number, for the purpose of tracking the exposure of consumers to particular content; see Abstract; col. 8, lines 34-54 & col. 9, lines 32-60. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Freeman & Chernock with the feature of embedding ID

information in an advertisement, at least for the desirable benefit of tracking statistics data regarding the instant advertisement, as taught by Houston, col. 1, lines 15-41 & col. 2, lines 41-67.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to:
(571) 273-8300, (for formal communications intended for entry)
Or:

(571) 273-7290 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher Kelley/

Supervisory Patent Examiner, Art Unit 2424